

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCIANO PLATA, et al.

No. C 01-01351 TEH

Plaintiffs,

v.

**ORDER APPOINTING COURT
EXPERT**

ARNOLD SCHWARTZENEGGER,
et al.

Defendants.

For the reasons set forth in this Court's Findings of Fact and Conclusions of Law, filed simultaneously herewith, and in light of the on-going, life threatening nature of the constitutional violations at issue in this matter, the Court concludes that the appointment of a Correctional Expert is appropriate to assist the Court in identifying discrete, urgently needed, remedial measures that can be undertaken immediately without interfering with the comprehensive and systemic reform that the Receiver necessarily will undertake. As set forth in the Findings of Fact and Conclusions of Law, this expert shall not serve in the capacity of a Receiver or Temporary Receiver, and shall not have the powers and responsibilities associated with such positions.¹ Rather, the expert shall be limited to the following tasks during the interim period pending appointment of the Receiver:

A. Meeting and conferring with counsel for the parties, California Department of Correction and Rehabilitation ("CDCR") officials, and representatives of the Coalition of CDCR Healthcare Unions, concerning concrete measures that can be undertaken to

¹ Nor shall the expert serve in the capacity of a Special Master or have the powers or authorities associated with such position (e.g. the expert will not have the power to enter prison grounds, hold evidentiary hearings or compel, take and record evidence).

1 address the following issues without interfering with the comprehensive and systemic
2 reform that the Receiver necessarily will undertake :

3 (1) Providing critical clinical staff, including physicians, mid-level providers, and
4 nursing personnel, at those institutions with the greatest immediate need.

5 (2) Ensuring that timely and adequate peer review and, if necessary, formal
6 investigations, are commenced by CDCR officials following the serious injury or
7 death of a prisoner patient.

8
9 B. Recommending the appointment of additional experts that may be necessary to
10 assist the Correctional Expert in carrying out his duties under this order.

11
12 C. Directing the activities of the Court's Medical Experts with respect to those
13 efforts necessary to permit the Correctional Expert to carry out his duties under this
14 order.

15
16 D. Preparing and submitting recommendation(s) to the Court with respect to
17 proposed remedial orders concerning the items identified in paragraph A above.

18
19 The Court finds that the above appointment is narrowly drawn to remedy the
20 constitutional violations at issue, extends no further than necessary to correct a current
21 and ongoing violation of a federal right, and is the least intrusive means necessary to
22 correct these violations. The Court also is amply satisfied that this relief will impose no
23 unnecessary burden on defendants and will have no adverse impact on either the safety of
24 the public or the operation of the criminal justice system.

Accordingly, and good cause appearing, it is HEREBY ORDERED as follows:

1. The Court appoints John Hagar² to serve as a Correctional Expert to the Court, pending appointment of a Receiver, to undertake the tasks set forth above in this Order.

2. All parties and court appointed experts shall fully cooperate with Mr. Hagar, including providing him with documents and access to CDCR personnel as needed to carry out this Order. Mr. Hagar shall immediately report to the Court in the event that he encounters any lack of cooperation.

3. Given the urgent nature of the issues, Mr. Hagar shall meet and confer with the parties and representatives of the Coalition of CDCR Healthcare Unions no later than Tuesday, October 11, 2005. He shall contact the parties with respect to coordinating the specific meeting times and formats.

4. Mr. Hagar shall provide a status report to the Court no later than 21 days from the date of this Order and shall provide follow-up status reports to the Court as necessary thereafter.

IT IS SO ORDERED.

Dated: Monday, October 3, 2005



THELTON E. HENDERSON
UNITED STATES DISTRICT JUDGE

² Since 1997, John Hagar has served the Court as the Special Master in *Madrid v. Gomez*, C90-3094, involving conditions at Pelican Bay State Prison. He is experienced in remedying unconstitutional problems concerning prison medical care, and has intimate knowledge of CDCR operations. Mr. Hagar is uniquely situated, given his experience, to assist the Court with respect to addressing the above stated emergency issues without compromising the long term, comprehensive systemic reform to be undertaken by the Receiver. Mr. Hagar shall be compensated in his role as a Correctional Expert at the rate of \$ 200.00 per hour.